

**REMARKS**

Applicant notes and agrees with the Examiner's statements regarding the election of species. The specification has been amended to include a specific reference to Fig. 5(a) in the drawings, thus complying with 37 C.F.R. 1.84. The Title of the application has been modified to better reflect the claimed invention.

With respect to the Examiner's statements regarding the claim of priority of the present application to earlier applications, Applicant believes all requirements under 35 U.S.C. 119(e) and 120 are met by the present claims, as amended. The claims as presently amended delete prior specific reference to "desiccated form" and are directed to use of an automated and cooperative sample repository system comprising *inter alia* samples stored on fibrous DNA-immobilizing media.

Support for the claimed feature of fibrous DNA-immobilizing media in the automated repository is found in the present specification at page 27, line 7 through line 9. In addition, the description of use of fibrous media in an automated multiple use sample repository is in found the Provisional Application U.S. 60/161,694, filed October 26, 1999, which was expressly incorporated by reference at page 1, and again at page 27, line 9 as part of the disclosure of the present application. (A copy of the Provisional Application as filed is enclosed for convenience with this paper.)

Appl. No. 10/613,434  
Amendment dated Feb. 5, 2007  
Reply to Office Action dated Oct. 5, 2006  
Page 10

The plain meaning of “paper” is well known in the art to encompass “fibrous media”, which is a more precise term. Webster’s Dictionary primarily defines “paper” as “... a thin, flexible material made usually in sheets from a pulp prepared from rags, wood, or other fibrous material”. The “DNA-immobilizing” feature of the present claims is enabled *inter alia* by the recitation of FTA paper (see for example page 5, line 14 of the Provisional Specification), and the other descriptive text in the above cited sections of the specifications.

The support of claim features through incorporation by reference is acceptable and must not be discounted, as established by *In re Haworth* 210 U.S.P.Q. 689 (CCPA 1981). Such support is not to be considered new matter, as set forth by *In re Hawkins* 179 U.S.P.Q. 157 (CCPA 1973). Applicant respectfully asserts the specification enables one skilled in the art how to make and use the claimed invention without undue experimentation.

The enabling description of the present application, including that of the Provisional Application, supports the claimed inclusion of fibrous DNA-immobilizing media. Among other features and advantages of the present invention, the inclusion of this element in an automated sample archive is

Appl. No. 10/613,434  
Amendment dated Feb. 5, 2007  
Reply to Office Action dated Oct. 5, 2006  
Page 11

a non-obvious distinction over prior art sample storage and retrieval systems.

Similarly, the objection to the Specification under 37 C.F.R. 1.75(d)(1) and MPEP 608.01(o) should be removed, as support for the presently amended claims is found in the applications to which priority is claimed.

Turning now to the specific rejection under 35 U.S.C. 102, it is firstly respectfully stated that the cited reference is not properly prior art to the present application priority filing date of August 4, 2000 and October 26, 1999, and accordingly the rejection should be removed. Moreover, Hodge does not disclose or suggest the presently claimed invention which is directed to an archive sample system. Hodge does not disclose or suggest an automated archive repository system combining corresponding medical information for archival of samples stabilized on DNA-immobilizing media, and clearly Hodge would be operable as such a storage archive. It is respectfully requested the rejection under 35 U.S.C. 102 (e) be removed.

Thus, it is respectfully asserted the present claims are patentable, and the cited reference does not disclose, nor suggest the presently claimed invention. None of the prior art, alone or in any reasonable combination, would be operable as the invention presently claimed.

Appl. No. 10/613,434  
Amendment dated Feb. 5, 2007  
Reply to Office Action dated Oct. 5, 2006  
Page 12

If the Examiner believes that a telephone conference with the undersigned would expedite passage of the present claims and patent application to allowance and issue, they are cordially invited to call the undersigned at the number below.

Respectfully submitted,



\_\_\_\_\_  
Robert D. Touslee  
Reg. No. 34,032

February 5, 2007  
Tel: 303-933-0103  
Fax: 303-933-0126